

House Engrossed Senate Bill

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 313

# SENATE BILL 1313

AN ACT

AMENDING SECTIONS 36-772, 36-2907.07 AND 36-2921, ARIZONA REVISED STATUTES;  
RELATING TO TOBACCO TAX PROGRAMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-772, Arizona Revised Statutes, is amended to  
3 read:

4 36-772. Health education account; audit; fund transfer

5 A. Twenty-three cents of each dollar in the tobacco tax and health  
6 care fund shall be deposited in the health education account for programs for  
7 the prevention and reduction of tobacco use, through public health education  
8 programs, including community based education, cessation, evaluation and  
9 other programs to discourage tobacco use among the general population as well  
10 as minors and culturally diverse populations.

11 B. The department of health services shall administer the account.

12 C. Monies that are deposited in the health education account shall:

13 1. Only be used to supplement monies that are appropriated by the  
14 legislature for health education purposes and shall not be used to supplant  
15 those appropriated monies.

16 2. Be spent only for the following purposes:

17 (a) Contracts with county health departments, qualifying community  
18 health centers as defined in section 36-2907.06, Indian tribes, accredited  
19 schools, nonprofit organizations, community colleges and universities for  
20 education programs related to preventing and reducing tobacco use.

21 (b) Administrative expenditures related to implementing and operating  
22 a program developed pursuant to subdivision (a) to award and oversee  
23 contracts for education programs including obtaining expert services to  
24 assist in evaluating requests for proposals and responses to those requests.

25 (c) Department of health services expenditures for developing and  
26 delivering education programs that are designed to prevent or reduce tobacco  
27 use including radio, television or print media costs. When contracting for  
28 the development and production of original advertising materials, the  
29 department shall require advertising, production and editorial firms to use  
30 their best efforts to employ or contract with residents of this state to  
31 manage, produce and edit the original advertising. The department shall  
32 report annually by December 1 of each year to the governor, the president of  
33 the senate and the speaker of the house of representatives regarding  
34 instances when the department did not employ or contract with residents of  
35 this state, including the reasons for failing to do so.

36 D. Monies from the health education account shall not be spent for  
37 lobbying activities involving elected officials or political campaigns for  
38 individuals or any ballot measure.

39 E. Beginning in fiscal year 1997-1998 and each fiscal year thereafter,  
40 the department may spend not more than an amount equivalent to ninety per  
41 cent of the previous fiscal year's tobacco tax and health care fund's  
42 allocation to the health education account for expenditures made pursuant to  
43 this section and for other purposes as prescribed by law.

1 F. THE AUDITOR GENERAL SHALL EVALUATE THE PROGRAMS ESTABLISHED  
2 PURSUANT TO SUBSECTION C, PARAGRAPH 2 OF THIS SECTION AND SHALL BIENNIALY  
3 SUBMIT A WRITTEN REPORT OF ITS FINDINGS TO THE GOVERNOR, THE PRESIDENT OF THE  
4 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE AUDITOR GENERAL  
5 SHALL PROVIDE A COPY OF EACH REPORT TO THE SECRETARY OF STATE AND THE  
6 DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE  
7 AUDITOR GENERAL SHALL SUBMIT ITS FIRST REPORT ON OR BEFORE NOVEMBER 15, 2004.  
8 THE FIRST REPORT SHALL INCLUDE DATA BEGINNING IN FISCAL YEAR 2001-2002.

~~9 G. BEGINNING ON JULY 1, 2002, THE DEPARTMENT OF HEALTH SERVICES SHALL  
10 ANNUALLY TRANSFER TO THE AUDITOR GENERAL AN AMOUNT EQUAL TO THREE AND  
11 ONE-HALF PER CENT OF THE PRECEDING YEAR'S DISTRIBUTIONS TO THE HEALTH  
12 EDUCATION ACCOUNT TO CONDUCT THE EVALUATIONS REQUIRED BY SUBSECTION F OF THIS  
13 SECTION. TRANSFERRED MONIES THAT REMAIN UNSPENT BY THE AUDITOR GENERAL AT  
14 THE END OF EACH FISCAL YEAR REVERT TO THE HEALTH EDUCATION ACCOUNT.~~

15 Sec. 2. Section 36-2907.07, Arizona Revised Statutes, is amended to  
16 read:

17 36-2907.07. Tobacco tax program evaluations

18 A. The administration shall enter into an intergovernmental agreement  
19 pursuant to title 11, chapter 7, article 3 to contract with the department  
20 of health services AUDITOR GENERAL to conduct annual OR CAUSE TO CONDUCT  
21 program evaluations of each program receiving any PROGRAMS THAT BOTH RECEIVE  
22 tobacco tax monies pursuant to section 36-774 AND ARE ADMINISTERED BY THE  
23 DEPARTMENT OF HEALTH SERVICES. THE AUDITOR GENERAL SHALL ESTABLISH A  
24 SCHEDULE FOR PERIODIC REVIEWS OF THE PROGRAMS. THE AUDITOR GENERAL SHALL  
25 NOTIFY THE JOINT LEGISLATIVE AUDIT COMMITTEE OF THE SCHEDULE FOR THE PERIODIC  
26 REVIEWS OF THE PROGRAMS. THE JOINT LEGISLATIVE AUDIT COMMITTEE SHALL REVIEW  
27 THE SCHEDULE AND MAY APPROVE OR MODIFY IT.

28 B. The annual program evaluations shall examine the effectiveness of  
29 the programs, the organizational structure of the programs and the efficiency  
30 of the programs.

31 C. The evaluations shall include but are not limited to the following  
32 utilization information:

- 33 1. The level and scope of services being offered.
- 34 2. The type of services being used.
- 35 3. The frequency of services being used.
- 36 4. The personal characteristics of the program participants who  
37 receive services.
- 38 5. The demographic characteristics of the program participants who  
39 receive services.

40 D. The annual program evaluations shall include but are not limited  
41 to:

- 42 1. Information on the number of the program participants.
- 43 2. Information on program contractors and program service providers.
- 44 3. Information on program revenues and expenditures.

1           4. Information on the average cost for each program participant  
2 receiving services and information on the average cost of providing each  
3 service.

4           5. Information on the administrative costs to operate each program.

5           6. An evaluation of the methods used by the department of health  
6 services for selecting eligible contractors.

7           7. An estimate of the benefits and effects of providing health care  
8 services to persons who cannot afford those services or for whom there would  
9 otherwise be no coverage.

10          E. THE DEPARTMENT OF HEALTH SERVICES SHALL PROVIDE DATA NECESSARY TO  
11 COMPLETE THE EVALUATIONS REQUIRED BY THIS SECTION.

12          ~~E.~~ F. The ~~department of health services~~ AUDITOR GENERAL shall submit  
13 an annual report to the director of the joint legislative budget committee  
14 no later than November 1 of each year.

15          ~~F.~~ G. The administration shall annually withdraw monies from the  
16 medically needy account established pursuant to section 36-774 in the amount  
17 necessary OF \$300,000 to reimburse the ~~department of health services~~ AUDITOR  
18 GENERAL for the evaluations conducted pursuant to this section.

19          Sec. 3. Section 36-2921, Arizona Revised Statutes, is amended to read:

20          36-2921. Tobacco tax allocation

21          A. Subject to the availability of monies in the medically needy  
22 account established pursuant to section 36-774 the administration shall use  
23 the monies in the account in the following order:

24           1. The administration shall withdraw the amount necessary to pay the  
25 state share of costs for providing health care services to any person who is  
26 eligible pursuant to section 36-2901, paragraph 4, subdivisions (a), (c) and  
27 (h) and who becomes eligible for a heart, lung, heart-lung, liver or  
28 autologous and allogeneic bone marrow transplant pursuant to section 36-2907,  
29 subsection A, paragraph 11, subdivision (d) as determined by the  
30 administrator and to any person who is eligible pursuant to section 36-2901,  
31 paragraph 4, subdivision (b) and who becomes eligible for a lung or  
32 heart-lung transplant pursuant to section 36-2907, subsection A, paragraph  
33 11, subdivision (b), as determined by the administrator.

34           2. Beginning on August 1, 1995 and on the first day of each month  
35 until July 1, 1998, the sum of one million two hundred fifty thousand dollars  
36 shall be transferred from the medically needy account to the medical services  
37 stabilization fund for uses as prescribed in section 36-2922.

38           3. The administration shall withdraw the sum of nine million two  
39 hundred fifty-one thousand one hundred dollars in fiscal year 1998-1999 for  
40 deposit in the children's health insurance program fund established by  
41 section 36-2995 to pay the state share of the children's health insurance  
42 program established pursuant to article 4 of this chapter.

43           4. From and after August 1, 1995 and each year thereafter, the  
44 administration shall transfer the following monies to the department of

1 health services to be allocated as follows if the department awards a  
2 contract:

3 (a) Five million dollars, for the mental health grant program  
4 established pursuant to section 36-3414.

5 (b) Six million dollars, for primary care services established  
6 pursuant to section 36-2907.05.

7 (c) Five million dollars, for grants to the qualifying community  
8 health centers established pursuant to section 36-2907.06, subsection A.

9 5. The administration shall transfer up to five hundred thousand  
10 dollars for fiscal years 1997-1998, 1998-1999 and 1999-2000 for pilot  
11 programs providing detoxification services in counties having a population  
12 of five hundred thousand persons or less according to the most recent United  
13 States decennial census.

14 6. The administration shall transfer up to two hundred fifty thousand  
15 dollars annually for fiscal years 1995-1996, 1996-1997, 1997-1998, 1998-1999  
16 and 1999-2000 for telemedicine pilot programs designed to facilitate the  
17 provision of medical services to persons living in medically underserved  
18 areas as provided in section 36-2352.

19 7. The administration shall transfer up to two hundred fifty thousand  
20 dollars annually beginning in fiscal year 1996-1997 for contracts by the  
21 department of health services with nonprofit organizations that primarily  
22 assist in the management of end stage renal disease and related problems.  
23 Contracts shall not include payments for transportation of patients for  
24 dialysis.

25 8. Contingent on the existence of a premium sharing demonstration  
26 project fund, beginning October 1, 1996 and until September 30, 1999, the  
27 administration shall withdraw the sum of twenty million dollars in each of  
28 fiscal years 1996-1997, 1997-1998 and 1998-1999 for deposit in the premium  
29 sharing demonstration project fund established by section 36-2923 to provide  
30 health care services to any person who is eligible for an Arizona health care  
31 cost containment system premium sharing demonstration program enacted by the  
32 legislature. The Arizona health care cost containment system premium sharing  
33 demonstration program enacted by the legislature shall not be an entitlement  
34 program. Beginning on October 1, 1997, the administration shall annually  
35 withdraw monies from the medically needy account not to exceed four per cent  
36 of the sum of any monies transferred pursuant to this paragraph for  
37 administrative costs associated with the premium sharing demonstration  
38 project. Administrative costs in excess of two per cent shall be funded from  
39 the interest payments from the twenty million dollars withdrawn from the  
40 medically needy account to fund the premium sharing program pursuant to this  
41 paragraph.

42 9. Subject to the availability of monies, the Arizona health care cost  
43 containment system administration shall transfer to the department of health  
44 services up to five million dollars in fiscal years 1996-1997 and 1997-1998

1 and two million five hundred thousand dollars in fiscal year 1998-1999 for  
2 providing nonentitlement funding for a basic children's medical services  
3 program established by section 36-2907.08. The administration may also  
4 withdraw and transfer to the department amounts for program evaluation and  
5 for administrative costs as prescribed in section 36-2907.08.

6 10. Subject to the availability of monies, the sum of one million  
7 dollars shall be transferred annually to the health crisis fund for use as  
8 prescribed in section 36-797.

9 11. Subject to the availability of monies, the Arizona health care cost  
10 containment system administration shall transfer to the aging and adult  
11 administration in the department of economic security the sum of five hundred  
12 thousand dollars annually beginning in fiscal year 1997-1998 for services  
13 provided pursuant to section 46-192, subsection A, paragraph 4. Services  
14 shall be used for persons who meet the low income eligibility criteria  
15 developed by the aging and adult administration.

16 12. Subject to the availability of monies, the Arizona health care cost  
17 containment system administration shall transfer to the department of health  
18 services the sum of two hundred thousand dollars annually beginning in fiscal  
19 year 1998-1999 for contracts entered into pursuant to section 36-132,  
20 subsection D, with hospitals that are licensed by the department of health  
21 services and that perform nonrenal organ transplant operations. These  
22 contracts shall not include payments for transportation to and from treatment  
23 facilities.

24 13. Subject to the availability of monies, the Arizona health care cost  
25 containment system administration shall annually transfer to the department  
26 of health services the sum of one hundred eleven thousand two hundred dollars  
27 to implement the rural private primary care provider loan repayment program  
28 established pursuant to section 36-2174. The department shall not use these  
29 monies for administrative costs. The transfers made pursuant to this  
30 paragraph are exempt from the provisions of section 35-190 relating to  
31 lapsing of appropriations.

32 B. The department of health services shall establish an accounting  
33 procedure to ensure that all funds transferred pursuant to this section are  
34 maintained separately from any other funds.

35 C. The administration shall annually withdraw monies from the  
36 medically needy account in the amount necessary to reimburse the department  
37 of health services for administrative costs to implement each program  
38 established pursuant to subsection A of this section not to exceed four per  
39 cent of the amount transferred for each program.

40 D. ~~SUBJECT TO THE AVAILABILITY OF MONIES~~, the administration shall  
41 ~~annually withdraw monies~~ TRANSFER THE SUM OF \$300,000 from the medically  
42 ~~needy account in the amount necessary to reimburse the department of health~~  
43 ~~services~~ TO THE AUDITOR GENERAL for the evaluations as prescribed by section  
44 36-2907.07.

1 E. The administration shall annually report, no later than November  
2 1, to the director of the joint legislative budget committee the annual  
3 revenues deposited in the medically needy account and the estimated  
4 expenditures needed in the subsequent year to provide funding for services  
5 provided in subsection A, paragraph 1 of this section. The administration  
6 shall immediately report to the director of the joint legislative budget  
7 committee if at any time the administration estimates that the amount  
8 available in the medically needy account will not be sufficient to fund the  
9 maximum allocations established in this section.

10 Sec. 4. Health education account audits; transfer of monies

11 The sum of \$380,000 is transferred from the health education account  
12 established by section 36-772, Arizona Revised Statutes, to the auditor  
13 general for the purpose of conducting the evaluations as provided in section  
14 36-772, subsection G, Arizona Revised Statutes.

15 Sec. 5. Effective date

16 Sections 36-2907.07 and 36-2921, Arizona Revised Statutes, as amended  
17 by this act, are effective from and after December 31, 2003.

APPROVED BY THE GOVERNOR MAY 4, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2001.

Passed the House April 25, 20 01,

by the following vote: 54 Ayes,

4 Nays, 2 Not Voting

Jake Flake  
Speaker of the House  
*Pro Tempore*

Herman L. Moore  
Chief Clerk of the House

Passed the Senate March 5, 20 01,

by the following vote: 22 Ayes,

7 Nays, 1 Not Voting

Paul F. Hunt  
President of the Senate

Chas. B. Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

           day of           , 20           ,

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

          , 20           ,

at            o'clock            M.

            
Governor of Arizona

S.B. 1313

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this            day of           , 20           ,

at            o'clock            M.

            
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 01, 20 01,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]

President of the Senate

[Signature]

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1 day of May, 20 01,

at 10:54 o'clock A M.

[Signature]  
Secretary to the Governor

APPROVED THIS 4 day of

May, 20 01,

at 11:00 o'clock A M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of May, 20 01,

at 4:34 o'clock P M.

[Signature]  
Secretary of State

S.B. 1313